

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ADAM NEIBAUER,

Plaintiff,

v.

Case No. 19-cv-1765-pp

WISCONSIN DEPARTMENT
OF CORRECTIONS, *et al.*,

Defendants.

**ORDER DISMISSING CASE WITHOUT PREJUDICE FOR FAILURE TO PAY
INITIAL PARTIAL FILING FEE**

Plaintiff Adam Neibauer was an inmate at the Oshkosh Correctional Institution when he filed this lawsuit, and he is representing himself.¹ When he filed this lawsuit, he asked the court to allow him to proceed without prepaying the filing fee. Dkt. No. 2. On December 6, 2019, the court ordered that by December 30, 2019, the plaintiff had to pay an initial partial filing fee of \$1.06 before the court could rule on his motion. Dkt. No. 6. The court advised the plaintiff that after it received this fee, it would determine whether he could proceed with his case without prepaying the full filing fee.

The plaintiff did not pay the initial partial filing fee by the deadline. On February 10, 2020, the court issued an order, explaining that before

¹ On March 4, 2020, the court received a notice of change of address for the plaintiff in another case, 19-cv-944-pp, which indicates that the plaintiff is no longer incarcerated. According to the Wisconsin Department of Corrections Inmate Locator, the plaintiff was released on extended supervision on February 25, 2020. <https://appsdoc.wi.gov/lop/detail.do>

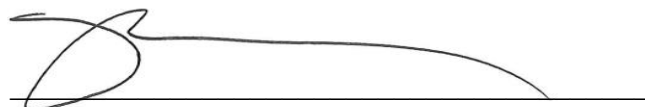
dismissing the case based on his failure to pay the initial partial filing fee, the court needed to determine whether the plaintiff had failed to pay the fee because he was unable to do so. Dkt. No. 7 at 1. The court gave the plaintiff a deadline of February 28, 2020 to either pay the \$1.06 initial partial filing fee or explain to the court why he was unable to do so. Id. The court cautioned the plaintiff that if it did not receive the fee or a written explanation of why the plaintiff was unable to pay the fee, the court would dismiss this lawsuit without prejudice. Id. at 2.

The February 28, 2020 deadline has passed, and the plaintiff has neither paid the fee nor provided the court with a written explanation of why he could not pay it. Although the plaintiff is no longer at Oshkosh Correctional Institution (where the court sent copies of the orders requiring the plaintiff to pay an initial partial filing fee, dkt. nos. 6, 7), he was housed there at the time the court sent both of the orders and neither has been returned to the court as undeliverable, so there is no reason to believe the plaintiff did not receive them.

The court **ORDERS** that this case is **DISMISSED without prejudice** based on the plaintiff's failure to pay the initial partial filing fee. Because the dismissal is without prejudice, the plaintiff may refile his complaint later, subject to the relevant statute of limitations.

Dated in Milwaukee, Wisconsin, this 12th day of March, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge